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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/723,367 | 11/26/2003 | Robert Lennie | PALM-3154.PSI.CON | 8025 |
| 49637 | 7590 | 10/05/2007 | EXAMINER | |
| BERRY & ASSOCIATES P.C. 9255 SUNSET BOULEVARD SUITE 810 LOS ANGELES, CA 90069 | | | BROWN, CHRISTOPHER J | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | |
|------------------------------|----------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/723,367 | LENNIE ET AL. |
| | Examiner Christopher J. Brown | Art Unit 2134 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-48 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 November 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

DETAILED ACTION

Priority

It is noted that this application appears to claim subject matter disclosed in prior Application No. 09607683, filed 6/30/2000. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C.

119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required. Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Claim Objections

Claims 2-8 are objected to because they are dependent on now cancelled claim 1.

Appropriate correction is required.

Claims 25, 34, and 43 are objected to because it appears the applicant states "request buffer encrypted with said encryption buffer using said second encryption key" on line 1.

The examiner believes this should read "request buffer encrypted with said second encryption key" and is interpreting accordingly.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 2-21 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2-21 of prior U.S. Patent No. US 6,754,825. This is a double patenting rejection.

Claim(s) 2 of Patent # 6,754,825 contain(s) every element of

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Claim(s) 2 of the instant application and as such anticipate(s) claim(s) 2 of the instant application.

Claim(s) 3 of Patent # 6,754,825 contain(s) every element of

Claim(s) 3 of the instant application and as such anticipate(s) claim(s) 3 of the instant application.

Claim(s) 4 of Patent # 6,754,825 contain(s) every element of

Claim(s) 4 of the instant application and as such anticipate(s) claim(s) 4 of the instant application.

Claim(s) 5 of Patent # 6,754,825 contain(s) every element of

Claim(s) 5 of the instant application and as such anticipate(s) claim(s) 5 of the instant application.

Claim(s) 6 of Patent # 6,754,825 contain(s) every element of

Claim(s) 6 of the instant application and as such anticipate(s) claim(s) 6 of the instant application.

Claim(s) 7 of Patent # 6,754,825 contain(s) every element of

Claim(s) 7 of the instant application and as such anticipate(s) claim(s) 7 of the instant application.

Claim(s) 8 of Patent # 6,754,825 contain(s) every element of

Claim(s) 8 of the instant application and as such anticipate(s) claim(s) 8 of the instant application.

Claim(s) 9 of Patent # 6,754,825 contain(s) every element of

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Claim(s) 9 of the instant application and as such anticipate(s) claim(s) 9 of the instant application.

Claim(s) 10 of Patent # 6,754,825 contain(s) every element of

Claim(s) 10 of the instant application and as such anticipate(s) claim(s) 10 of the instant application.

Claim(s) 11 of Patent # 6,754,825 contain(s) every element of

Claim(s) 11 of the instant application and as such anticipate(s) claim(s) 11 of the instant application.

Claim(s) 12 of Patent # 6,754,825 contain(s) every element of

Claim(s) 12 of the instant application and as such anticipate(s) claim(s) 12 of the instant application.

Claim(s) 13 of Patent # 6,754,825 contain(s) every element of

Claim(s) 13 of the instant application and as such anticipate(s) claim(s) 13 of the instant application.

Claim(s) 14 of Patent # 6,754,825 contain(s) every element of

Claim(s) 14 of the instant application and as such anticipate(s) claim(s) 14 of the instant application.

Claim(s) 15 of Patent # 6,754,825 contain(s) every element of

Claim(s) 15 of the instant application and as such anticipate(s) claim(s) 15 of the instant application.

Claim(s) 16 of Patent # 6,754,825 contain(s) every element of

Claim(s) 16 of the instant application and as such anticipate(s) claim(s) 16 of the instant application.

Claim(s) 17 of Patent # 6,754,825 contain(s) every element of
Claim(s) 17 of the instant application and as such anticipate(s) claim(s) 17 of the instant application.

Claim(s) 18 of Patent # 6,754,825 contain(s) every element of
Claim(s) 18 of the instant application and as such anticipate(s) claim(s) 18 of the instant application.

Claim(s) 19 of Patent # 6,754,825 contain(s) every element of
Claim(s) 19 of the instant application and as such anticipate(s) claim(s) 19 of the instant application.

Claim(s) 20 of Patent # 6,754,825 contain(s) every element of
Claim(s) 20 of the instant application and as such anticipate(s) claim(s) 20 of the instant application.

Claim(s) 21 of Patent # 6,754,825 contain(s) every element of
Claim(s) 21 of the instant application and as such anticipate(s) claim(s) 21 of the instant application.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d

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1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 22-48 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-21 of prior U.S. Patent No. US 6,754,825. This is a double patenting rejection. rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,754,825. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of US Patent No. 6,754,825 anticipate every element of the instant application.

Claim(s) 1 of Patent # 6,754,825 contain(s) elements of

Claim(s) 22 of the instant application and as such anticipate(s) claim(s) 22 of the instant application.

Claim(s) 1 of Patent # 6,754,825 contain(s) elements of

Claim(s) 23 of the instant application and as such anticipate(s) claim(s) 23 of the instant application.

Claim(s) 1 of Patent # 6,754,825 contain(s) elements of

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Claim(s) 24 of the instant application and as such anticipate(s) claim(s) 24 of the instant application.

Claim(s) 2 of Patent # 6,754,825 contain(s) elements of

Claim(s) 25 of the instant application and as such anticipate(s) claim(s) 25 of the instant application.

Claim(s) 3 of Patent # 6,754,825 contain(s) elements of

Claim(s) 26 of the instant application and as such anticipate(s) claim(s) 26 of the instant application.

Claim(s) 4 of Patent # 6,754,825 contain(s) elements of

Claim(s) 27 of the instant application and as such anticipate(s) claim(s) 27 of the instant application.

Claim(s) 6 of Patent # 6,754,825 contain(s) elements of

Claim(s) 28 of the instant application and as such anticipate(s) claim(s) 28 of the instant application.

Claim(s) 7 of Patent # 6,754,825 contain(s) elements of

Claim(s) 29 of the instant application and as such anticipate(s) claim(s) 29 of the instant application.

Claim(s) 8 of Patent # 6,754,825 contain(s) elements of

Claim(s) 30 of the instant application and as such anticipate(s) claim(s) 30 of the instant application.

Claim(s) 9 of Patent # 6,754,825 contain(s) elements of

Claim(s) 31 of the instant application and as such anticipate(s) claim(s) 31 of the instant application.

Claim(s) 9 of Patent # 6,754,825 contain(s) elements of

Claim(s) 32 of the instant application and as such anticipate(s) claim(s) 32 of the instant application.

Claim(s) 9 of Patent # 6,754,825 contain(s) elements of

Claim(s) 33 of the instant application and as such anticipate(s) claim(s) 33 of the instant application.

Claim(s) 10 of Patent # 6,754,825 contain(s) elements of

Claim(s) 34 of the instant application and as such anticipate(s) claim(s) 34 of the instant application.

Claim(s) 11 of Patent # 6,754,825 contain(s) elements of

Claim(s) 35 of the instant application and as such anticipate(s) claim(s) 35 of the instant application.

Claim(s) 12 of Patent # 6,754,825 contain(s) elements of

Claim(s) 36 of the instant application and as such anticipate(s) claim(s) 36 of the instant application.

Claim(s) 14 of Patent # 6,754,825 contain(s) elements of

Claim(s) 37 of the instant application and as such anticipate(s) claim(s) 37 of the instant application.

Claim(s) 15 of Patent # 6,754,825 contain(s) elements of

Claim(s) 38 of the instant application and as such anticipate(s) claim(s) 38 of the instant application.

Claim(s) 16 of Patent # 6,754,825 contain(s) elements of

Claim(s) 39 of the instant application and as such anticipate(s) claim(s) 39 of the instant application.

Claim(s) 17 of Patent # 6,754,825 contain(s) elements of

Claim(s) 40 of the instant application and as such anticipate(s) claim(s) 40 of the instant application.

Claim(s) 17 of Patent # 6,754,825 contain(s) elements of

Claim(s) 41 of the instant application and as such anticipate(s) claim(s) 41 of the instant application.

Claim(s) 17 of Patent # 6,754,825 contain(s) elements of

Claim(s) 42 of the instant application and as such anticipate(s) claim(s) 42 of the instant application.

Claim(s) 18 of Patent # 6,754,825 contain(s) elements of

Claim(s) 43 of the instant application and as such anticipate(s) claim(s) 43 of the instant application.

Claim(s) 19 of Patent # 6,754,825 contain(s) elements of

Claim(s) 44 of the instant application and as such anticipate(s) claim(s) 44 of the instant application.

Claim(s) 12 of Patent # 6,754,825 contain(s) elements of

Claim(s) 45 of the instant application and as such anticipate(s) claim(s) 45 of the instant application.

Claim(s) 14 of Patent # 6,754,825 contain(s) elements of

Claim(s) 46 of the instant application and as such anticipate(s) claim(s) 46 of the instant application.

Claim(s) 15 of Patent # 6,754,825 contain(s) elements of

Claim(s) 47 of the instant application and as such anticipate(s) claim(s) 47 of the instant application.

Claim(s) 16 of Patent # 6,754,825 contain(s) elements of

Claim(s) 48 of the instant application and as such anticipate(s) claim(s) 48 of the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 24, 31, 33, 40, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright US 6,084,969.

As per claims 22, 31, and 40, Wright teaches accessing said query (pager message) comprising user identification data (UID) (Column 9 lines 40-45). Wright teaches the query comprises an unencrypted portion comprising unencrypted data (Field 1, UID, EM, AM) (Column 9 lines 40-45). Wright teaches an encrypted portion comprising an encrypted buffer (Fields 2, and 3) (Column 9 lines 37-56). Wright teaches the encrypted buffer is encrypted using a first encryption key (encrypting message using the Session Key) (Col 9 lines 55-56). Wright teaches the encrypted buffer also encrypted using a second encryption key (RC4 symmetric Key may be used rather than RSA cryptography) (Column 7 lines 60-64, Column 9 lines 47-54, Column 10 lines 2-6). Wright teaches obtaining said second encryption key (recover key from database according to UID) (Column 11 line 65 to Column 12 line 6). Wright teaches decrypting at least a portion of said encrypted portion using said second encryption key (decrypting session key) (Column 12 lines 5-8). Wright teaches decrypting said encrypted buffer using said first encryption key (decrypting message with session key) (Column 12 lines 10-13). Wright teaches determining authentication by comparing said user identification data to user identification data contained within said encrypted buffer (comparing unencrypted UID with decrypted UID) (Column 12 lines 8-11). Wright teaches the system has memory and a processor as is well known in the art (processor, memory, capable of receiving messages) (Column 7 lines 1-25).

As per claims 24, 33, and 42 Wright teaches determining said second encryption key using at least a portion of said unencrypted data (using unencrypted UID to determine database key) (Column 11 line 65 to Column 12 line 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 32, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright US 6,084,969 in view of Khello US 5,724,423 .

As per claims 23, 32, and 41, Wright does not teach determining authorization using information contained within said encrypted buffer.

Khello teaches determining authorization using information contained within said encrypted buffer (using an encrypted PIN code to determine authorization and access) (Column 3 lines 15-29, Column 4 line 50 to Column 5 line 2).

It would have been obvious to one of ordinary skill in the art to use the PIN of Khello in the encrypted message of Wright because it allows a user to conduct secure service transactions (Col 1 lines 10-20, Col 2 lines 24-33).

Claims 28, 37, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright US 6,084,969 in view of Takaragi US 5,117,458.

As per claims 28, 37, and 46, Wright does not teach the second encryption key is determined using a hash of at least three elements.

Takaragi teaches the second encryption key is determined using a hash of at least three elements (generates a common key using a hash of a random number and the ID of users of the key, L, D, E,) (column 9 lines 44-55).

It would have been obvious to one of ordinary skill in the art to use the key generation method of Takaragi with the system of Wright because it allows a generation of a preshared secret key for a plurality of receivers (Col 5 lines 50-60).

Allowable Subject Matter

Claims 25-27, 29, 30, 34-36, 38, 39, 43-45, 47, 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571)272-3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher J. Brown

6/19/07

